

1 Bennett H. Goldstein, OSB No. 80239
1132 SW 19th Ave., No. 106
2 Portland, Oregon 97205
Telephone: (503) 294-0940
3 Telecopy: (503) 294-7918
Email: bhgoldatty@comcast.net

4 Attorney for Plaintiff

9 In re MARK E. DELONG,
10 Debtor.

12 BANK OF EASTERN OREGON, an Oregon
13 banking corporation,

14 Plaintiff,

15 v.

16 MARK E. DELONG,
17 Defendant.

Case No. 17-34395-pcm11

Adversary Proceeding No.

**COMPLAINT TO DETERMINE
DISCHARGEABILITY OF DEBT
PURSUANT TO 11 USC §523(a)(2)(A)**

JURISDICTION AND VENUE

20 1. This action contains a core claim for relief over which this court has
21 jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334 and United States District Court Local Rule
22 2100-1. The claims for relief arise under 11 USC § 523(a)(2)(A). Venue is proper pursuant to
23 28 USC § 1409.

FACTS

24
25 2. Mark E. Delong (“Delong”) is an individual. Bank of Eastern Oregon (“Bank”)
26 an Oregon banking corporation.

3. On November 28, 2018 Delong filed his Chapter 11 petition herein (“Petition Date”).

4. This adversary proceeding is timely filed in accordance with Doc # 109 filed in the Chapter 11 case.

5. At all material times hereto Delong was the obligor to Bank under Promissory Note Nos. 8512, 8579 and 8546 (“Notes”). The amounts due under the Notes as of October 16, 2017, in addition to attorneys’ fees and costs, are:

Note 8512	
Principal	\$3,275,016.00
Accrued interest as of 10/16/17:	\$ 871,015.70

Note 8579	
Principal	\$1,547,363.09
Accrued interest as of 10/16/17:	\$ 203,166.39

Note 8546	
Principal	\$1,873,364.17
Accrued interest as of 10/16/17:	\$ 448,468.49

5. The obligations under the Notes are secured by liens in real property as follows:

5.1 A deed of trust (“Trust Deed 1”) recorded on December 31, 2013 in the records of Malheur County, Oregon as Document No. 2013-5383 under which Delong is grantor, Bank is beneficiary and Malheur County Title Company, Inc. is trustee.

5.2 A deed of trust (“Trust Deed 2”) recorded on December 31, 2013 in the records of Malheur County, Oregon as Document No. 2013-5384 under which Delong is grantor, Bank is beneficiary and Malheur County Title Company, Inc. is trustee.

5.3 A deed of trust (“Trust Deed 3”) recorded on December 31, 2013 in the records of Malheur County, Oregon as Document No. 2013-5385 under which Delong is grantor, Bank is beneficiary and Malheur County Title Company, Inc. is trustee.

5.4 A deed of trust (“Trust Deed 4”) recorded on November 10, 2004 in the records of Malheur County, Oregon as Document No. 2004-7992, as modified, under which Delong is grantor, Bank is beneficiary and American Title Company of Malheur is trustee.

1 14. By reason of Delong's acts and omissions, Delong obtained money that belonged
2 to the Bank as a secured party, which should have been used to repay the Notes.

3 15. The amount of collateral subject to the diversion as a result of Delong's scheme
4 with Pattie Baker constitutes a nondischageable debt within the scope of 11 USC §523(a)(2)(A),
5 in that such scheme was a fraud upon the Bank.

6 16. The total amount of the debt that is nondischargeable is presently unknown to
7 the Bank, but is no less than \$47,500.00.

8 WHEREFORE, plaintiff prays:

9 1. For a judgment in favor of the plaintiff and against Delong for the sum of
10 the non-dischargeable debt, plus costs;

11 2. For such other relief as may be just and equitable.

12 Date: July 5, 2018.

13 /s/ Bennett H. Goldstein

14 Bennett H. Goldstein, OSB No. 80239
15 Telephone: (503) 294-0940
16 Attorney for Plaintiff